

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PAUL WHITE,

Plaintiff,

-against-

IMMIGRATION & CUSTOMS
ENFORCEMENT (ICE), ET AL.,

Defendants.

21-CV-9902 (LTS)

TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is currently detained in the Caroline Detention Facility (CDF) in Caroline County, Virginia, brings this *pro se* action, alleging that Defendants violated his rights in the CDF.¹ For the following reasons, this action is transferred to the United States District Court for the Eastern District of Virginia.

Under 28 U.S.C. § 1391(b), a civil action may be brought in

a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

Under Section 1391(c), a “natural person” resides in the district where the person is domiciled, and an “entity with the capacity to sue and be sued” resides in any judicial district where it is

¹ On December 1, 2021, the court received from Plaintiff a substantially similar submission that he labeled “Convention Against Torture Act/Torture Victim Protection Act Motion for a Temporary Restraining Order,” and which the Clerk of Court opened as a new civil action. *See White v. Immigration & Customs Enf't*, ECF 1:21-CV-10210, 1 (S.D.N.Y. Dec. 1, 2021). Because the complaint in that action asserted the same claims that Plaintiff asserts in this action, by order dated December 1, 2021, the Court dismissed that action without prejudice as duplicative of this action. ECF 1:21-CV-10210, 2.

subject to personal jurisdiction with respect to the civil action in question. *See* 28 U.S.C. § 1391(c)(1), (2).

Plaintiff challenges his conditions of confinement at CDF and alleges that Defendants Lucas and Cheetham used excessive force and retaliated against him. Plaintiff alleges that Defendants ICE and the United States reside in Washington, DC, and that all other defendants reside in Bowling Green, Caroline County, Virginia. Even though ICE and the United States can be considered to reside in this district, venue is nonetheless improper under Section 1391(b)(1) because Plaintiff does not allege that all defendants reside in the State of New York. Because Plaintiff alleges that the events or omissions giving rise to his claims arose in Caroline County, Virginia, venue is not proper in this Court under Section 1391(b)(2).

Plaintiff's claims arose in Caroline County, Virginia, which is in the Eastern District of Virginia. *See* 28 U.S.C. § 127(a). Accordingly, venue lies in the Eastern District of Virginia, 28 U.S.C. § 1391(b)(2), and this action is transferred to the United States District Court for the Eastern District of Virginia, 28 U.S.C. § 1406(a).

CONCLUSION

The Clerk of Court is further directed to transfer this action to the United States District Court for the Eastern District of Virginia. Whether Plaintiff should be permitted to proceed further without prepayment of fees is a determination to be made by the transferee court. A summons shall not issue from this Court. This order closes this case.

The Court certifies, pursuant to 28 U.S.C § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: December 2, 2021
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge